

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JERMAINE WALKER,	)	
	)	
Plaintiff,	)	No. 08 C 1542
	)	
v.	)	Honorable Elaine E. Bucklo
	)	Judge Presiding
ERIC MICHAELEK, et al.	)	
	)	
Defendants.	)	

**DEFENDANTS' MOTION TO STAY**

NOW COME the Defendants, DANIEL LUCE, DAVID MANSFIELD, TAMMY GARCIA and ERIC MICHAELEK, by and through their attorney, LISA MADIGAN, Illinois Attorney General, and move this Court to grant Defendants' Motion to Stay the requirement of filing a responsive pleading, pending the outcome of Defendants' Motion for Summary Judgment on the limited issue of exhaustion under the PLRA. In support of this motion, Defendants state:

1. Plaintiff, a *pro se* inmate in the custody of the Illinois Department of Corrections, filed his Complaint on May 5, 2008. Plaintiff alleges that Defendants are interfering with his "legal mail" from the courts.

2. On June 27, 2008, Defendants filed a Motion for Leave to file a Motion for Summary Judgment on the limited issue of exhaustion of administrative remedies under the Prison Litigation Reform Act. Defendants asserted that pursuant to *Pavey v. Conley*, 2008 WL 2277494 (7<sup>th</sup> Cir., June 5, 2008), the Court should address the issue of exhaustion of administrative remedies at the outset of the litigation, prior to discovery and before reaching the merits of the suit.

3. On July 7, 2008, the Court granted Defendants' Motion for Leave and entered a briefing schedule for Defendants' Motion for Summary Judgment.

4. It is unclear whether Defendants' Motion for Summary Judgment is considered a "responsive pleading" under Rule 12 of the Federal Rules for Civil Procedure. Therefore, as the issue of exhaustion should be addressed at the outset of the litigation before the Court reaches the merits of the suit, Defendants respectfully request that the Court stay their obligation to file a responsive pleading until the Court rules on their Motion for Summary Judgment.

**WHEREFORE**, Defendants respectfully pray that this Honorable Court grant their Motion to Stay the requirement of filing a responsive pleading, pending the outcome of Defendants' Motion for Summary Judgment on the limited issue of exhaustion under the PLRA.

Respectfully submitted,

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